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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/246,612	02/08/1999	JAMES MCCORMICK	1400.9801020	6382
25697 7590 04/02/2007 ROSS D. SNYDER & ASSOCIATES, INC. PO BOX 164075 AUSTIN, TX 78716-4075			EXAMINER TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/02/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/246,612

Applicant(s)

MCCORMICK ET AL.

Examiner

Kenneth Tang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-19, 21-29, 31-37, and 39-40 is/are rejected.
- 7) ☐ Claim(s) 12, 20, 30 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the Response filed on 12/19/06. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejections.
2. Claims 1-40 are presented for examination.

### ***Allowable Subject Matter***

3. Claims 12, 20, 30 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 9 and 28, in the limitation, "dequeue a dispensable call signaling messages", it is unclear whether this relates to a single message or a plurality of messages because this limitation is grammatically incorrect. The scope cannot be ascertained, and therefore, this claim is indefinite.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**5. Claims 1-11 and 14-19, 21-29, 31-37, and 39-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Willmann et al. (hereinafter Willmann) (US 5,521,923).**

6. As to claim 1, Willmann discloses a method consisting of the following:

receiving a plurality of call signaling messages (D1, D2, D3, Fig. 1);

comparing a queue occupancy level ( $n$ , col. 5, lines 32-33) of a call processing queue with a first queue occupancy threshold ( $N$ , col. 6, line 8, CMP2, Fig. 2); and

when occupancy level compares unfavorably with the first queue occupancy threshold ( $n > N$ ), enqueueing the plurality of call signaling messages into the call processing queue based on types (priority classes, P1, P2) of call signaling messages (col. 6, lines 3-7 and 24-31).

7. Specifically, when  $n > N$ , the system stores new lower priority P2 data, deletes old lower priority P2 data, and always stores new higher priority P1 data. In other words, the enqueueing policies for P1 and P2 type of data are difference once  $n > N$ , i.e. P1 will not lose any old data and P2 will lose old data.

8. As to claim 2, Willmann teaches using dispensable (lower priority class) and indispensable (higher priority class) as type of call signaling messages (col. 6, lines 3-7 and 24-31).

9. As to claims 3, Willmann teaches the following:
  - a) when message is dispensable, delete the previous dispensable message (col. 6, lines 3-7 and 24-31);
  - b) enqueueing new message when previous one is deleted (col. 6, lines 3-7 and 24-31);
  - c) enqueueing message into queue when message is indispensable (col. 6, lines 3-7 and 24-31).
10. As to claim 4, Willmann teaches dropping the call signaling message if the previous dispensable one does not exist (col. 3, lines 9-12, col. 6, lines 34-40, claim 1).
11. As to claim 5, Willmann discloses a method consisting of the following:
  - comparing the queue occupancy level with a second queue occupancy threshold (CMP1, CMP2, Fig. 2);
  - when occupancy level compares unfavorably with the second queue occupancy threshold:
    - when a call signaling message of the plurality of call signaling messages is a dispensable message, deleting from the call processing queue a previously queued dispensable message when the previously dispensable message exists (col. 6, lines 3-7 and 24-31);
    - enqueueing the call signaling message into the call processing queue when the previously queued dispensable message is deleted (col. 6, lines 3-7 and 24-31).

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12. As to claim 6, it is rejected for the same reasons as stated in the rejection of claim 4.
13. As to claim 7, it is rejected for the same reasons as stated in the rejection of claim 3.
14. As to claim 8, it is rejected for the same reasons as stated in the rejection of claim 4.
15. As to claims 9, Willmann teaches when in a sustained overloading condition, dequeuing a dispensable call signaling messages in a first dequeuing manner from the call processing queue (col. 6, lines 3-7 and 24-31). Being in a sustained overloading condition is merely staying within the maximum queue occupancy threshold.
16. As to claim 10, Willmann teaches using at least one of FIFO and LIFO (col. 4, line 19).
17. As to claim 11, Willmann teaches maintaining a plurality of dequeuing lists, wherein the plurality of dequeuing lists track available locations in the call processing queue, an ordered list of types of call messages, an ordered list of dispensable messages, and an ordered list of indispensable messages (list of vacant locations and priority queues QU1, QU2, see claim 14).
18. As to claim 14, it is rejected for the same reasons as stated in the rejection of claim 1.
19. As to claim 15, it is rejected for the same reasons as stated in the rejection of claim 2.

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20. As to claim 16, it is rejected for the same reasons as stated in the rejection of claim 3.
21. As to claim 17, it is rejected for the same reasons as stated in the rejection of claim 5.
22. As to claim 18, it is rejected for the same reasons as stated in the rejection of claim 4.
23. As to claim 19, it is rejected for the same reasons as stated in the rejection of claim 11.
24. As to claim 21, it is rejected for the same reasons as stated in the rejection of claim 9.
25. As to claim 22, it is rejected for the same reasons as stated in the rejection of claim 1.
26. As to claim 23, it is rejected for the same reasons as stated in the rejection of claim 2.
27. As to claim 24, it is rejected for the same reasons as stated in the rejection of claim 3.
28. As to claim 25, it is rejected for the same reasons as stated in the rejection of claim 1.
29. As to claim 26, it is rejected for the same reasons as stated in the rejection of claim 18.
30. As to claim 27, it is rejected for the same reasons as stated in the rejection of claim 4.

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31. As to claim 28, it is rejected for the same reasons as stated in the rejection of claim 9.
32. As to claim 29, it is rejected for the same reasons as stated in the rejection of claim 11.
33. As to claim 31, it is rejected for the same reasons as stated in the rejection of claims 9 and 10.
34. As to claim 32, it is rejected for the same reasons as stated in the rejection of claim 1.
35. As to claim 33, it is rejected for the same reasons as stated in the rejection of claim 2.
36. As to claim 34, it is rejected for the same reasons as stated in the rejection of claim 3.
37. As to claim 35, it is rejected for the same reasons as stated in the rejection of claim 5.
38. As to claim 36, it is rejected for the same reasons as stated in the rejection of claim 3.
39. As to claim 37, it is rejected for the same reasons as stated in the rejection of claim 11.
40. As to claim 39, it is rejected for the same reasons as stated in the rejection of claims 9 and 10.



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41. As to claim 40, Willmann teaches using at least one of FIFO and LIFO (col. 4, line 19).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willmann et al. (hereinafter Willmann) (US 5,521,923).**

43. As to claim 13, Willmann teaches dequeuing dispensable call messages from the call processing queue in a FIFO manner based on the ordered list of dispensable messages when in a sustained overloading condition (see rejections of claims 9 and 10). Willmann is silent in using a LIFO queue. However, Last-In-First-Out is a well known queueing method that is obvious and desirable to use when the next item to be retrieved is the item most recently placed in the queue.

***Response to Arguments***

44. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejections.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kt  
5/19/07

  
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